

STATE OF MICHIGAN  
COURT OF APPEALS

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In the Matter of CHERYL C. KALLIO and  
SHANNON M. KALLIO, Minors.

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FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

ERICK KALLIO,

Respondent-Appellant,

and

MICHELLE BUFORD and JOHN BUFORD,

Respondents.

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UNPUBLISHED  
November 2, 2004

No. 253850  
Wayne Circuit Court  
Family Division  
LC No. 03-422691

Before: Griffin, P.J., and Saad and O'Connell, JJ.

PER CURIAM.

Respondent-appellant Erick Kallio, the father of the minor children,<sup>1</sup> appeals the trial court's order that terminated his parental rights to the minor children under MCL 712A.19b(3)(g) and (j), and we affirm.<sup>2</sup>

The trial court did not clearly err when it ruled that petitioner established the statutory grounds by clear and convincing evidence. *In re Jackson*, 199 Mich App 22, 25; 501 NW2d 182 (1993). Even before his incarceration, respondent allowed his children to remain in the custody

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<sup>1</sup> Respondents Michelle Buford and John Buford are married, but "separated" in 1995. Shortly thereafter, John Buford moved to Arizona. The couple never divorced. Michelle Buford is the mother of the minor children, who were born in 1998 and 2000. The trial court found that the children are not the legal issue of the marriage between Michelle Buford and John Buford, and that Kallio is the legal father of both children. Neither Michelle Buford nor John Buford are parties to this appeal. Accordingly, we will hereafter refer to Kallio solely as "respondent."

<sup>2</sup> This appeal is being heard without oral argument pursuant to MCR 7.214(E)(1)(b).

of their mother, despite her drug use, and when the mother could no longer care for the children, he allowed them to live with the mother's friends instead of providing care and custody himself. The evidence also suggested that respondent failed to provide adequate financial support for the children's care before his incarceration, and that this failure to provide financial support culminated in the loss of their home on two occasions. Furthermore, the evidence showed that respondent failed to plan for the children's custody or support them during his incarceration, instead leaving the children in the mother's custody, despite her ongoing and serious drug problem. In light of respondent's past failure to provide proper care and custody to the children before his incarceration, his failure to provide a plan for the children during his incarceration, the lack of any indication that he ever assumed the primary care of his children on his own, his criminal history, and the uncertainty of the time table when respondent could possibly care for his children, clear and convincing evidence also established that respondent would not likely be able to provide proper care or custody within a reasonable time.

Given respondent's past inability or unwillingness to provide proper care or custody to his children, we hold that the trial court did not clearly err when it concluded that respondent's longstanding pattern of abdicating his parental role to others suggested that if the children were returned to his care they may be in danger of further neglect.<sup>3</sup> Respondent's failure to assume primary care of the children or adequately support them, instead allowing them to stay in the custody of their mother, a known drug user, and the abdication of his parental role to the mother's friends while the mother abused drugs, put his children at a risk of harm by failing to protect them from a potentially harmful environment that lacked permanency and further evidenced poor judgment.

We also conclude that the evidence did not establish that termination of respondent's parental rights was clearly not in the children's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). Although respondent testified to the bond with his children and the about the progress he made in abstaining from drugs, completing his G.E.D., and attending NA and AA meetings while incarcerated, the children had already been outside of respondent's care and custody for a substantial part of their lives by the time of the termination trial, including a significant period of time before his incarceration. In addition, since his incarceration, respondent has neither seen nor provided support for his children. Accordingly, we hold that termination of respondent-appellant's parental rights was appropriate.

Affirmed.

/s/ Richard Allen Griffin  
/s/ Henry William Saad  
/s/ Peter D. O'Connell

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<sup>3</sup> We find that the trial court clearly erred in finding that the children may be in danger of "some sort of abuse" if returned to respondent's care. The record was devoid of any evidence that respondent ever abused or physically neglected the children when they were in his care and custody.